

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

OCTOBER 1, 1999

IN RE:)	
)	
PETITION OF NEXTLINK TENNESSEE, LLC)	DOCKET NO. 97-01366
FOR APPROVAL OF AN INTRALATA TOLL)	
DIALING PARITY IMPLEMENTATION PLAN)	

**ORDER APPROVING THE INTRALATA TOLL DIALING PARITY
IMPLEMENTATION PLAN**

This matter came before the Tennessee Regulatory Authority (the "Authority") on July 27, 1999, at a regularly scheduled Authority Conference, to consider the Petition of NEXTLINK Tennessee, LLC ("NEXTLINK") for approval of an IntraLATA Toll Dialing Parity Implementation Plan ("the Plan").

Section 251(b) of the Telecommunications Act of 1996 ("the Act") requires all Local Exchange Carriers to provide dialing parity.¹ Specifically, section 251 (b)(3) of the Act states, "Dialing Parity - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." The Act further states in sections 251(f)(1) and 251(f)(2) that a rural telephone company may file

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, (February 8, 1996), codified at 47 U.S.C. §§151 *et seq.*

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with the state commission for exemption, suspension or modification of the dialing parity requirements.

The Federal Communications Commission ("FCC") initiated a rulemaking on dialing parity on April 19, 1996 and issued its findings in FCC 96-333 Order (Docket 96-98) adopted on August 8, 1996. This Order sets forth the criteria and guidelines for filing of a plan by all carriers. Subsequent to this Order the United States Court of Appeals for the Eighth Circuit vacated the FCC's rules, as they were applicable to intrastate services.² On January 25, 1999, the United States Supreme Court reversed certain portions of the Eighth Circuit's decision including that part of the decision which had stricken the FCC's rules pertaining to dialing parity.³

The FCC's original date for implementation, February 8, 1999, was reinstated by the Supreme Court's decision of January 25, 1999. As a result of this reinstatement, the FCC released FCC 99-54 Order (Docket 96-98) on March 23, 1999, which set forth revised implementation dates for dialing parity. This Order establishes April 22, 1999 as the new date by which all Local Exchange Carriers must file an IntraLATA Toll Dialing Parity Plan with State Commissions for approval. The Plan must be implemented within thirty (30) days after approval from the State Commission. Additionally, the Order states that the Plan must be filed with the Common Carrier Bureau of the FCC if the State Commission has not acted on the Plan by June 22, 1999.

NEXTLINK is a telecommunications company operating under Tenn. Code Ann. § 65-4-201 as a competitive local exchange carrier that provides telecommunications

² FCC v. Iowa Utils. Bd., United States Court of Appeals for the Eighth Circuit, July 18, 1997.

³ AT&T v. Iowa Utils. Bd., 119 S.Ct. 721 (1999).

services in Tennessee. Pursuant to 47 C.F.R. § 51.213, NEXTLINK is required to file a plan with the Authority that provides for implementing intraLATA toll dialing parity in the exchanges in Tennessee where service is provided.⁴ This plan must allow customers to pre-subscribe to different carriers for local service, intraLATA toll service and interLATA toll service.⁵

NEXTLINK filed an intraLATA toll dialing plan on July 22, 1997 with amendments filed on July 30, 1997 and August 4, 1997. NEXTLINK also filed a request for a waiver under Section 251(f)(2) of the Telecommunications Act of 1996 requesting to delay implementation of intraLATA toll dialing parity in Tennessee until six (6) months after receiving a “bona fide” request from an eligible carrier.

The Directors considered NEXTLINK’s plan and request for waiver at the August 19, 1997 Authority Conference and determined that the Plan, as amended, satisfies the requirements set forth by the FCC in Docket 96-98, FCC Order 96-333. The request for waiver was also approved. The order was issued on February 26, 1998.

On April 20, 1999, the Authority issued a data request to NEXTLINK which asked for additional information concerning the approved plan and waiver because of the changes that had taken place in the intraLATA toll dialing parity environment. On May 21, 1999, NEXTLINK responded to the Authority’s data request indicating that

⁴ Under 47 C.F.R. §51.213, the Federal Communication Commission requires that an IntraLATA toll dialing parity plan contain: (1) a proposal that explains how the local exchange carrier will offer intraLATA toll dialing parity for each exchange that such carrier operates in the state, in accordance with the provisions of this section, and a proposed time schedule for implementation; and (2) a proposal for timely notification to its subscribers and the methods it proposes to use to enable each subscriber to affirmatively select an intraLATA toll service provider. The state commission must approve any such plan prior to implementation.

⁵ Pre-subscription allows the customer to place a call without dialing an access code.

NEXTLINK intended to implement intraLATA toll dialing parity within six (6) months pursuant to the approved plan. NEXTLINK's response stated that a sample of proposed customer notification and a proposed cost recovery plan would be submitted to the Authority for approval.

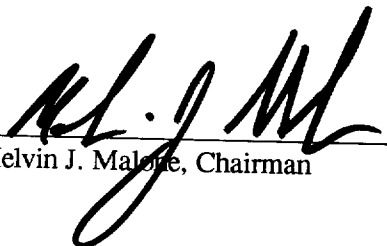
During the July 27, 1999 Authority Conference, the Directors considered NEXTLINK's revised date for the implementation of intraLATA toll dialing parity. NEXTLINK has not implemented intraLATA toll dialing parity. Additionally, the intraLATA toll dialing parity environment has changed since approval of NEXTLINK's request for suspension of the intraLATA toll dialing parity implementation requirement date. Therefore, the Directors unanimously voted to require NEXTLINK to implement intraLATA toll dialing parity by January 27, 2000. The Directors further required NEXTLINK to submit to the Authority for approval, an updated intraLATA toll dialing parity implementation plan and incremental cost recovery method at least sixty (60) days prior to implementation.

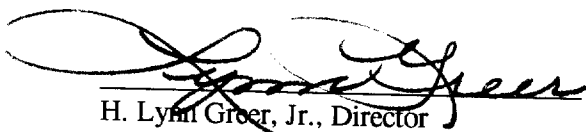
IT IS THEREFORE ORDERED THAT:

1. NEXTLINK Tennessee, LLC shall implement intraLATA toll dialing parity in all exchanges and LATAs in Tennessee where service is provided by January 27, 2000;
2. NEXTLINK Tennessee, LLC shall submit a new intraLATA toll dialing parity implementation plan, to this Authority for approval, sixty (60) days prior to implementation. This plan shall include an incremental cost recovery plan for the implementation of intraLATA toll dialing parity and the proposed method to recover those costs;

3. NEXTLINK Tennessee shall comply with all applicable sections of FCC Order 96-333 upon implementing IntraLATA equal access; and


4. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.


Melvin J. Malone, Chairman


H. Lynn Groer, Jr., Director


Sara Kyle, Director

ATTEST:


K. David Waddell, Executive Secretary